IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3532 OF 2004

Arpan Brijpalsingh Yadav ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr. M.S. Mohite with Mr. S.G. Kangaonkar, for the Applicant.

Mr. A.S. Gadkari, A.P.P., for the State.

Ms. Anjali Pradhan, Complainant, present in person.

Mr. Shashikant S. Pawar for 24 other complainants.

...

CORAM : A.M.KHANWILKAR,J.

24th September 2004

P.C.:

. Heard Counsel for the parties. CR. No. 413 of 2004 has been registered with Kothrud Police Station, Pune, on the complaint made by Mrs. Anjali Pradhan against the Applicant for non-payment of certain amounts, resulting in

offence under section 420, 406 read with section 34, Indian Penal Code. At the outset, the Applicant stated before this Court that since the amount of the complainant was outstanding, the Applicant was willing to pay the entire amount without prejudice. In the context of submission made, notice was issued to the complainant Mrs. Anjali Pradhan to ascertain whether she was inclined to accept the amount as offered by the Applicant and resolve the matter amicably. Pursuant to the said notice, she is personally present before this Court and has volunteered that if she is paid the amount outstanding as claimed by her, she is not interested in pursuing the matter against the Applicant. The Applicant has tendered banker's cheque of Saraswat Bank in the sum of Rs.60,000/- drawn in favour of Karma Info System of which Mrs. Anjali Pradhan is the proprietress. The banker's cheque is made over to her in Court. She has verified the contents of the banker's cheque and is satisfied with the instrument made over to her. In this view of the matter, the Applicant deserves to be granted relief in terms of prayer clause (a) on usual conditions. Ordered accordingly.

. The learned A.P.P., however, submits that several other complaints have been received by the police while investigating into the present CR. It is made clear that order passed in this application will be confined to CR. No. 413 of 2004 and if any fresh complaint is received, that will be dealt with in accordance with law.

. At this stage, Counsel for the Applicant submits that since the Police is inclined to register fresh cases against the Applicant, the Police may be directed to give 48 hours notice to the Applicant if they intend to arrest the Applicant in connection with any of these fresh cases. The request seems to be reasonable and consistent with the settled legal position that the police should be satisfied that arrest of the concerned person is essential and for which purpose, they will have to undertake some inquiry. It is open to the police before arresting the Applicant to make preliminary inquiry about the correctness of the claim, because the Applicant through his Counsel submits before this Court that in respect of any undisputed outstanding claim, the Applicant would pay the amount straightaway to such party, who

has made complaint against the Applicant, but there is possibility that false allegations will be made inspite of having made payment and the payment being realised by the complainant party. To obviate such situation, the police to give 48 hours prior notice to the Applicant before arrest in respect of fresh cases to be registered.

. Application disposed of on the above terms.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)